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April 7, 2008

RE: Annual Report of the Department of Telecommunications and Cable concerning the financial condition of the Wireline Enhanced 911 Fund

Pursuant to G. L. c. 6A, § 18H½, the Department of Telecommunications and Cable ("Department") submits its annual report concerning the financial condition of the Wireline Enhanced 911 ("E911") Fund. In sum, the Department reports that in fiscal year¹ ("FY") 2007 (*i.e.*, July 1, 2006 to June 30, 2007) and the first six months of FY 2008 (*i.e.*, July 1, 2007 to December 31, 2007), the financial condition of the Wireline E911 Fund was stable, and adequate to ensure the provision of high-quality wireline E911 services, relay services for TDD/TYY users, communications equipment distribution for people with disabilities, and amplified handsets at pay telephones (collectively, "disability access programs"). The financial stability was maintained through two events. First, in FY 2007, the wireline E911 surcharge increased from \$0.85 per month to \$0.99 per month. Second, in FY 2007, the deficit accumulated under the former directory assistance funding mechanism was eliminated. Each is discussed below.

Additionally, the Department determines that the capital expenditures and related expenses of the Statewide Emergency Telecommunications Board ("SETB")² incurred in provisioning wireline E911 service pursuant to G. L. c. 166, § 14A and in complying with the requirements for equipment distribution and services pursuant to G.L. c. 166, § 15E were reasonable and prudent in calendar year 2007. The Department further determines that, for the

¹ SETB's fiscal year runs from July 1 through June 30 of the following year.

² SETB is an agency within the Executive Office of Public Safety which coordinates, effects the implementation of, and administers wireline and wireless E911 service in the Commonwealth. *See* G. L. c. 6A, §§ 1, 18(B)(a) – (b).

period January 1, 2008 to June 31, 2008, the capital expenditures and related expenses of the SETB incurred in provisioning wireline E911 service pursuant to G. L. c. 166, § 14A and in complying with the requirements for equipment distribution and services pursuant to G.L. c. 166, § 15E were reasonable and prudent.

I. BACKGROUND

From 1990 to 2002, wireline E911 service³ and disability access programs were funded by charging residential customers for each directory assistance call that exceeded their allowance of ten free calls per month. *See* Acts of 1990, c. 291, § 7. Initially, the directory assistance funding mechanism was sufficient to support E911 services and disability access programs, but the program began operating at an annual deficit in 1995. The deficit under the directory assistance revenue funding mechanism was estimated, as of the end of 2002, at \$43.1 million.

In 2003, the current wireline surcharge funding mechanism replaced the directory assistance funding mechanism. *See* Acts of 2002, c. 239, § 1. The wireline surcharge funding mechanism, codified at G. L. c. 6A, § 18H½, provides for (1) the recovery of expenses incurred by telephone companies associated with the provision of wireline E911 services pursuant to G. L. c. 6A, §§ 18A – 18F; G. L. c. 166, § 14A; (2) the recovery of expenses associated with the provision of disability access programs, which are provisioned pursuant to G. L. c. 166, § 15E; and, (3) the recovery of the deficit accumulated under the prior directory assistance funding mechanism. *See* Acts of 2002, c. 239, § 1. *See also* G. L. c. 6A, § 18H½ (wireline surcharge funding mechanism).

The Wireline E911 Fund was established to receive the revenues from the wireline E911 surcharge and collected by telephone companies from their customers. *See* G. L. c. 10, § 35W½ (establishing separate fund to be known as the Wireline E911 Fund). The amounts credited to the Wireline E911 Fund are made available for expenditure by SETB solely for the recovery of expenses associated with the provision of wireline E911 services, disability access programs, and deficit recovery. *See* G. L. c. 10, § 35W½. *See also* G. L. c. 6A, § 18H½.

II. FINANCIAL CONDITION OF THE WIRELINE E911 FUND

The Department reports that the financial condition of the Wireline E911 Fund in FY 2007 and the first six months of FY 2008 was stable and adequate to ensure the provision of high quality E911 services and disability access programs. Two events helped to ensure the stability of the Wireline E911 Fund: an increase in the wireline surcharge in FY 2007, and the elimination in FY 2007 of the deficit accumulated under the prior directory assistance funding

³ “E911” refers to the system which provides residents and businesses with the ability to reach emergency services by dialing the digits “9-1-1”. *See* G. L. c. 6A, §18A (definitions). Unlike standard 911, E911 provides both the telephone number used to place the 911 call and information relating to the geographical location of the telephone used to place the 911 call. *See id.*

mechanism.

First, the Department determined that a \$0.14 increase in the wireline surcharge to \$0.99 per month in FY 2007 was necessary to maintain the stability of the Wireline E911 Fund. *See Investigation by the Department of Telecommunications and Energy to establish a permanent surcharge to recover prudently incurred costs associated with the provision of wireline Enhanced 911 services, relay services for TDD/TYY users, communications equipment distribution for people with disabilities, and amplified handsets at pay telephones*, D.T.E. 06-4, at 2, n.5 (2006) (“*E911 Surcharge Order*”) (establishing wireline surcharge of \$0.99 for the period January 1, 2007 to December 31, 2007). A copy of the *E911 Surcharge Order* is attached.

The increase in the level of the wireline surcharge to \$0.99 per month was initiated by SETB. More specifically, in January 2006, SETB petitioned the Department to increase the level of the wireline surcharge, arguing that the Wireline E911 Fund would go into deficit in FY 2007 at the \$0.85 surcharge level. *See E911 Surcharge Order at 2*. The \$0.85 wireline surcharge level had been in place since 2003. *See id.* at n.5. The Department’s investigation in D.T.E. 06-4 determined that a \$0.14 increase to \$0.99 was justified. The Department found that the projected number of wireline customers, or access line count, in 2003 was approximately 25 percent higher than the actual number of wireline customers in 2003 and beyond. *See id.* at 12, 23-24. The Department also found that the actual number of wireline customers would continue to decline as wireline customers continue to migrate to wireless and other emerging technologies such as Voice over Internet Protocol (“VoIP”). *See id.* at 23-24.

Because the number of wireline customers is multiplied by the \$0.85 surcharge level to calculate the wireline surcharge revenue, actual wireline surcharge revenue received by the Wireline E911 Fund was significantly lower than was predicted when the \$0.85 wireline surcharge level was established. Therefore, the actual revenue generated by the \$0.85 wireline surcharge and credited to the Wireline E911 Fund would be insufficient to recover the expenses associated with the provision of wireline E911 services, disability access programs, and deficit recovery through FY 2007. To avoid the projected deficit in FY 2007, the Department revised the wireline surcharge to \$0.99 per month for the period January 1, 2007 to December 31, 2007. *See E911 Surcharge Order at 35*. By doing so, the stability of the Wireline E911 Fund was maintained.

Second, the elimination in FY 2007 of the deficit accumulated under the prior directory assistance funding mechanism assisted in maintaining the financial stability of the Wireline E911 Fund. As noted above, the accumulated deficit at the end of 2002 was estimated at \$43.1 million. As of March 2006, the estimated deficit was nearly \$11 million. *See E911 Surcharge Order at 33*. In FY 2007, the monthly expense for deficit recovery was \$607,000. *See E911 Surcharge Order at 33*. In October 2007, SETB informed the Department that the deficit was eliminated. *See Petition of the Statewide Emergency Telecommunications Board to establish a wireline surcharge for the period January 1, 2008 to June 30, 2008, to recover prudently incurred costs associated with the provision of wireline Enhanced 911 services, relay services*

for TDD/TTY users, communications equipment distribution for people with disabilities, and amplified handsets at payphones, SETB Petition at 2, D.T.C. 07-7 (filed October 16, 2007) (“Petition”). The elimination of the significant monthly payment for the deficit will assist in continuing the financial stability of the Wireline E911 Fund.

Furthermore, the elimination of the deficit is a primary reason behind SETB’s Petition to reduce the wireline surcharge to \$0.75 per month for the period January 1, 2008 to June 30, 2008.⁴ See SETB Petition at 2. On February 8, 2008, the Department concluded that reducing the wireline E911 surcharge to \$0.75 per month was appropriate for the period January 1, 2008 to June 30, 2008. See *Petition of the Statewide Emergency Telecommunications Board to establish a wireline surcharge for the period January 1, 2008 to June 30, 2008, to recover prudently incurred costs associated with the provision of wireline Enhanced 911 services, relay services for TDD/TTY users, communications equipment distribution for people with disabilities, and amplified handsets at payphones*, D.T.C. 07-7 (2008) (“2008 E911 Surcharge Order”). A copy of the 2008 E911 Surcharge Order is attached.

Turning to the reasonableness of SETB’s capital expenditures and related expenses, in the *E911 Surcharge Order*, the Department determined that the capital expenditures and related expenses incurred in provisioning wireline E911 service pursuant to G. L. c. 166, § 14A and in complying with the requirements for equipment distribution and services pursuant to G.L. c. 166, § 15E were reasonable in calendar year 2007. Please refer to that Order for a detailed discussion of each SETB expense in calendar year 2007. Additionally, the Department determined that SETB’s capital expenditures and related expenses associated with the provision of wireline E911 services and disability access programs for the period January 1, 2008 to June 31, 2008 are reasonable and prudent. Please refer to the Department’s *2008 E911 Surcharge Order* for a detailed discussion of each SETB expense for the period January 1, 2008 to June 31, 2008.

Lastly, the Department notes that the stability of the Wireline E911 Fund is, at this time, based upon short term adjustments to the level of the surcharge and the elimination of a substantial debt. Currently, revenue from the wireline surcharge, and any associated interest, are the only sources of revenue to provision wireline E911 services and disability access programs. Yet, the wireline surcharge revenues continues to decline as the number of wireline customers continue to migrate to wireless, VoIP and other emerging technologies. Additionally, SETB recently completed a major E911 computer equipment upgrade in December 2007, but the useful life of this new equipment is only five to seven years. Thus, a long term solution that recognizes the rapid pace of changes in technology and the telecommunications industry must be implemented to ensure a stable funding source for the provision of E911 services and disability access programs.

On December 22, 2006, the Department made specific recommendations to the

⁴ The Department’s authority to establish the wireline E911 surcharge expires on June 30, 2008. See G. L. c. 6A, § 18H½. See also Acts of 2007, c. 42, § 3.

Committee on Government Regulations regarding a long term plan for funding E911 services and disability access programs. *See Report of the Department of Telecommunications and Energy relative to a long term plan for funding enhanced 911 services*, D.T.E. 06-33 (2006) (“*Report*”). A copy of the *Report* is attached. In that *Report*, the Department recommended to the Legislature that: (1) E911 services continue to be funded through a surcharge; (2) the Legislature consider a regional approach to the provision of E911 services which consolidates PSAPs and PSAP functions; (3) the surcharge be technology neutral and imposed on all telecommunications devices that access the E911 system, including but not limited to wireline, wireless, VoIP and any emerging technologies; (4) the surcharge revenues be deposited into a single E911 Fund; (5) the level of the surcharge be established, and if necessary, recalculated, by the Department; (6) the term of any future funding legislation be limited to a three year term to allow for review of the effect of emerging technologies and changes in Federal law on the E911 program and funding; and, (7) the E911 legislation explicitly enumerate the appropriate uses of the funds. The Department has offered its assistance to SETB in drafting legislation to incorporate the Department’s recommendations for submission to the Legislature.

IV. CONCLUSION

The financial condition of the Wireline E911 Fund is stable and adequate to ensure the provision of high-quality E911 services and disability access programs. Additionally, the Department will continue to work with SETB to draft legislation that includes a long-term funding solution for the provision of E911 services and disability access programs.

The Department appreciates this opportunity to present this report to the Legislature. Should you have any questions or comments, please feel free to contact me at (617) 305-3580.

Respectfully submitted,

Sharon E. Gillett, Commissioner